

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

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|--------------------|---|---------------------------|
| ROBERT ANTHONY, |) | CASE NO. 5:10CV848 |
| |) | |
| PLAINTIFF, |) | JUDGE SARA LIOI |
| |) | |
| vs. |) | |
| |) | |
| CITY OF BARBERTON, |) | MEMORANDUM OPINION |
| |) | |
| DEFENDANT. |) | |
| |) | |

On October 14, 2009, after having been granted leave to proceed *in forma pauperis*, plaintiff filed this action against the City of Barberton. (Doc. No. 5.) The case was originally filed in the U.S. District Court for the Southern District of Ohio. On December 16, 2009, the defendant filed a motion to dismiss for improper venue. (Doc. No. 9.) This motion was denied on April 19, 2010 and the case was transferred to this court. (*See* Doc. No. 14.)

On April 29, 2010, the defendant again filed a motion to dismiss. (Doc. No. 17.) The Court directed the plaintiff to file any opposition to the motion by no later than May 28, 2010. (*See* Doc. No. 18.) That deadline has passed with no opposition to the motion having been filed.¹

The Court has reviewed the defendant's motion to dismiss and, for the reasons very well-articulated therein (which need not be repeated here), the motion to dismiss (Doc. No. 17) is **GRANTED**.

¹ On June 7, 2010, plaintiff did untimely file a motion to stay or motion for trial (Doc. No. 19) along with a "Notice of Facts" (Doc. No. 20). Neither of these documents would change the outcome of this decision.

The Court certifies that an appeal from this decision could not be taken in good faith. 28 U.S.C. § 1915(a)(3).²

IT IS SO ORDERED.

Dated: June 8, 2010



HONORABLE SARA LIOI
UNITED STATES DISTRICT JUDGE

² 28 U.S.C. § 1915(a)(3) provides, in pertinent part:

An appeal may not be taken *in forma pauperis* if the trial court certifies that it is not taken in good faith.